IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 967 of 2004 (S/S)

Madan Mohan Joshi
S/o Sri Tara Dutt Joshi
R/o Veterinary Pharmacist,
Veterinary Hospital
Chaukhutiya Almora
District- Almora … Petitioner

Versus

1. Deputy Director
   Pashu Palan Vibhag
   Kumaon Mandal, Nainital

2. District/ Chief Medical Officer Veterinary
   Almora

3, Veterinary Medical Officer
   Chaukhutiya,
   District- Almora … Respondents

Sri Suresh Chandra Bhatt, learned counsel for the petitioner.
Sri Harendra Belwal, Brief Holder for the State for respondents.

Hon'ble B.C. Kandpal, J.

This writ petition has been filed for seeking a direction in the nature of certiorari quashing the order dated 17.08.2004 (Annexure-3 to this writ petition). Another direction has also been sought in the nature of mandamus commanding the respondents not to transfer the petitioner from his present place of posting or transfer him to the requested place stated in his representation.

Brief facts giving rise to this writ petition are that the petitioner is Veterinary Pharmacist of the Veterinary Hospital Chaukhutiya, Almora. On 13.05.2003, the petitioner moved an application stating therein his personal problem and requested that he may be transfer

to the Veterinary Hospital, Ranikhet or Sadar Veterinary Hospital, Almora and this representation was forwarded by the Chief Veterinary officer but his representation was not considered and he was transferred to Dhamus from his present place of posting.

The petitioner has averred that his daughter is handicapped and is studying in class 11th at Chaukhutiya and he has been continuously requesting the respondents that he may be given a proper place where his children can obtain their higher studies.

The request of the petitioner was not considered by the respondent no. 1 who has transferred him from the present place of posting. Hence, this writ petition.

Heard learned counsel for the petitioner, learned Standing Counsel and perused the record.

Counter and rejoinder affidavits have been exchanged. The petitioner has referred the Government Order dated 08.04.1999 issued by the Government of U.P. with regard to transfer policy of the Government Officials/Officers.

Paragraph 4 of this G.O. reads as follows.

"4. mi;qDrku lkj LFkkukUrj.k djrs le; vf/kdkfj;ksa@deZpkfj;ksa dh 0;fDrxr dkj.k] tSls &fpfdRlk ;k cPpksa dh f'k{kk bR;kfn dh vk/kkj ij fopkj djrs gq,] mudk LFkkukrj.k @le;ksrtu dj fn;k tk;A"

Learned counsel for the petitioner has argued that this G.O. has not been taken into consideration by the respondent no. 1 while passing the transfer order.

This court generally refrains in interfering with the transfer policy matters unless the transfer order is based on malafides.

However, keeping in view the G.O. referred by the learned counsel for the petitioner as well as the application filed by the petitioner alongwith the writ petition, I think that the respondent no. 1 should reconsider the matter of the petitioner pertaining to his transfer.

With these observations, the writ petition is finally disposed of.

The petitioner shall file the representation within 15 days before the respondent no. 1 alongwith certified copy of this order and the respondent no. 1 shall decide the representation of the petitioner within 30 days by passing speaking and reasoned order.

(B.C. Kandpal, J.)

28th June, 2005
Shiv